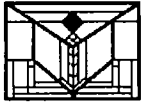


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Renee Dagseth

12/09/2003 02:26 PM

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Subject: EPA/Cominco proposal differences

Hello! It was a great pleasure to be at your meeting last week. I promised to send along a summary of the differences between EPA and Cominco's study proposals and here it is.

**Status of EPA U.S. EPA Discussions With Teck Cominco Metals, Ltd. on
Upper Columbia River Contamination**

12/3/03

BACKGROUND

- * On Wednesday, November 26, officials from Teck Cominco notified EPA attorneys in Seattle that the company would not agree to perform environmental evaluations to the basic standards required of every other U.S. company.
- * Several studies have documented heavy metal contamination in Columbia River sediments at levels that greatly exceed standards. (<http://www.epa.gov/r10earth/> Click on "Index," then "U," and then "Upper Columbia River Site.")
- * According to Teck Cominco, over the span of nearly 100 years the company dumped 10-20 million tons of metals-contaminated slag into the Columbia River
- * The EPA intends to evaluate the effects of this contamination on human health and the environment, and determine if any cleanup actions are necessary.
- * These studies typically are done under the EPA's remedial investigation and feasibility study (RI/FS) process under CERCLA.
- * An RI/FS for contaminated sites involves rigorous studies to characterize the site, evaluate contamination, assess risks, evaluate cleanup alternatives and select an alternative. All these studies are done in collaboration with state, tribal and local governments with EPA retaining final decision making authority on the dozens of technical issues that arise during the course of the studies.
- * The EPA has heard local concerns about perceived impacts of a NPL listing and in this instance was willing to pursue the studies under the Superfund Alternative Sites approach – an approach that nonetheless requires that a study or cleanup is performed consistent with requirements under CERCLA. CERCLA is the only federal law under which assessments and cleanups at sites of this type are conducted.

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* For the past year, EPA has been asking Teck Cominco to perform an RI/FS of the Upper Columbia River that is consistent with US laws (including EPA's Superfund Alternative approach).

* Teck Cominco has refused to perform the RI/FS. In the end, this means that Teck Cominco is not willing to perform a study of the Upper Columbia River that would enable EPA or other entities to make any final determinations on the effects of contamination to human health or the environment in the Upper Columbia River. This is inconsistent with state, tribal, community and EPA desires for this project.

HOW DOES TECK COMINCO'S PROPOSAL FALL SHORT?

Teck Cominco completely rewrote our proposed RI/FS in a way that made it impossible for the EPA to determine what the company was offering or committing to do. While we were able to tease out some specific shortfalls (listed below), the sense of our technical staff was that the company's proposed studies were far from comprehensive. In addition, Cominco's proposal had the EPA role limited to the review and approval of very few documents. This would have left the polluter, Teck Cominco, with far too much control of the studies.

All the EPA could positively determine is they were committing to conduct a human health and ecological risk assessment. And as noted above, an RI/FS has many other substantive components. For instance the company failed to include meaningful data gap analysis, site characterization, fate and transport analysis, or sediment transport work. The company was only offering to do a risk assessment – and refused to agree to perform the other substantive regulatory and procedural requirements.

More specifically:

* Teck Cominco proposed to ignore basic environmental and health standards, set in promulgated law, that all US companies must meet.

* Teck Cominco's proposal was limited to a study of risk only, using narrowly defined approaches. This would not enable final conclusions about the human health or environmental impacts of the site.

* Our studies consider risk along with other factors and we collaborate with other parties to select models and scientific approaches to data analysis.

* Teck Cominco committed to conduct work only “in *general* concordance” with EPA Superfund guidance (emphasis added).

* Teck Cominco would not agree to preserve the rights for trustees to file claims for damages to natural resources in the same manner that all US companies in this situation must do.

* Teck Cominco claims that EPA insisted that Teck Cominco Metals (a Canadian company) sign a Superfund agreement and that is why the negotiations broke down. This is false. EPA repeatedly told the company that it is willing to sign a Superfund agreement with a American subsidiary of Teck Cominco – Teck Cominco American – and we agreed to allow the company to reserve all jurisdictional defenses.

OUR CONCLUSIONS

* Teck Cominco's offer was a fundamental refusal to perform a comprehensive study of the Upper Columbia River under CERCLA. Without this, EPA would not be able to make any determinations regarding the effects of a century's worth of contaminant discharge on human health and the environment of the Upper Columbia system.

* Teck Cominco's proposed studies would not be objective or credible.

* EPA believes that the people of the Upper Columbia River are entitled to the same level of protection that EPA works to ensure in every other part of the country.

* We know there is existing environmental damage in the upper reaches of the Columbia River, it must be studied through a credible and objective process.

* EPA plans to move forward with federal funding to conduct the investigation – with the full participation of the tribes, the state, local communities, and other stakeholders – and will pursue the responsible parties for costs that should not be borne by US taxpayers.

Please let me know if you have any questions. Regards, Renée.

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